

**\*\*\*TO BE SUBMITTED UNDER SEAL\*\*\***

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOHN O. MYERS,

Plaintiff,

– against –

HSBC INVESTMENTS (USA) INC.; HSBC NORTH  
AMERICA HOLDINGS INC.; HSBC SECURITIES  
(USA) INC.; HSBC FINANCE CORPORATION; and  
HSBC HOLDINGS PLC,

Defendants.  
-----X

2007 Civ. 04078 (RJH) (GWG)

**ECF CASE**

**AFFIDAVIT OF  
BLAIR C. FENSTERSTOCK  
IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
A PROTECTIVE ORDER**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

BLAIR C. FENSTERSTOCK, being duly sworn, deposes and says:

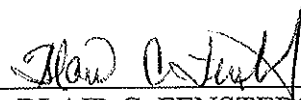
1. I am an attorney duly admitted to practice law before this Court and am the Managing Partner of the firm of Fensterstock & Partners LLP, counsel for Plaintiff John O. Myers. I am familiar with the facts and circumstances of the above-captioned proceeding and make these statements based upon personal knowledge and upon the files kept in my office.

2. I submit this Affidavit in support of Plaintiff's Motion for a Protective Order.

3. Pursuant to Fed. R. Civ. P. 26(c)(1), I hereby certify that I have conferred in good faith with Defendants' counsel in an effort to resolve this dispute without Court action, before submitting this Motion for the Court's consideration. After a conference before Magistrate Judge Gabriel W. Gorenstein on March 28, 2008, I was directed to make this Motion as a result of the parties' inability to resolve our disputes.

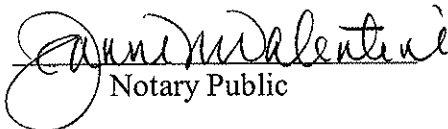
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4. Annexed hereto as Exhibit A is a true and correct copy of the Complaint filed in this action, dated May 24, 2007.
5. Annexed hereto as Exhibit B is a true and correct copy of the Amended Answer filed in this action, dated September 19, 2007.
6. Annexed hereto as Exhibit C is a true and correct copy of Defendants' First Demand for the Production of Documents, dated November 7, 2007.
7. Annexed hereto as Exhibit D is a true and correct copy of Plaintiff's Response to Defendants' First Demand for the Production of Documents, dated December 7, 2007.
8. Annexed hereto as Exhibit E is a true and correct copy of Defendants' letter to the Court dated January 30, 2008, as Endorsed by Judge Richard J. Holwell on February 5, 2008.
9. Annexed hereto as Exhibit F is a true and correct copy of the Affidavit of John O. Myers, dated April 24, 2008.



BLAIR C. FENSTERSTOCK

Sworn to before me this  
24<sup>th</sup> day of April, 2008



Notary Public

JEANNE M. VALENTINE  
New York State Notary Public  
No. 02VA6053190  
Qualified in Queens County, NY  
Commission Expires 1/02/2011